



CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY



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LINDA S. ADAMS
SECRETARY FOR
ENVIRONMENTAL PROTECTION

ARNOLD SCHWARZENEGGER
GOVERNOR

Certified Mail: 7003 1680 0000 6167 7480

April 15, 2010

Mr. Ronald Arias, Director
City of Long Beach
Department of Health and Human Services
2525 Grand Avenue
Long Beach, California 90815

Dear Mr. Arias:

The California Environmental Protection Agency (Cal/EPA), California Emergency Management Agency, and the State Water Resources Control Board conducted a program evaluation of the Long Beach Department of Health and Human Services Certified Unified Program Agency (CUPA) on January 26 and 27, 2010. The evaluation was comprised of an in-office program review and field oversight inspections by State evaluators. The evaluators completed a Certified Unified Program Agency Evaluation Summary of Findings with your agency's program management staff. The Summary of Findings includes identified deficiencies, a list of preliminary corrective actions, program observations, program recommendations, and examples of outstanding program implementation.

The enclosed Evaluation Summary of Findings is now considered final and based upon review, I find that Long Beach Department of Health and Human Services' program performance is satisfactory with some improvement needed. To complete the evaluation process, please submit Deficiency Progress Reports to Cal/EPA that depict your agency's progress towards correcting the identified deficiencies. Please submit your Deficiency Progress Reports to Kareem Taylor every 90 days after the evaluation date; the first report is due on June 28, 2010.

Cal/EPA also noted during this evaluation that Long Beach Department of Health and Human Services has worked to bring about a number of local program innovations, including the CUPA's active membership in the Chemical Awareness & Emergency Response (CAER) group. We will be sharing these innovations with the larger CUPA community through the Cal/EPA Unified Program website to help foster a sharing of such ideas statewide.

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Thank you for your continued commitment to the protection of public health and the environment through the implementation of your local Unified Program. If you have any questions or need further assistance, you may contact your evaluation team leader or Jim Bohon, Manager, Cal/EPA Unified Program at (916) 327-5097 or by e-mail at jbohon@calepa.ca.gov.

Sincerely,

[Original Signed by Jim Bohon]

Don Johnson
Assistant Secretary
California Environmental Protection Agency

Enclosure

cc: Sent via e-mail:

Mr. Nelson Kerr
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cc: Sent via e-mail:

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Enclosure



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CERTIFIED UNIFIED PROGRAM AGENCY EVALUATION SUMMARY OF FINDINGS

CUPA: Long Beach Department of Health and Human Services

Evaluation Date: January 26 and 27, 2010

EVALUATION TEAM

Cal/EPA: Kareem Taylor

SWRCB: Terry Snyder

Cal EMA: Fred Mehr

This Evaluation Summary of Findings includes the deficiencies identified during the evaluation, program observations and recommendations, and examples of outstanding program implementation activities. The evaluation findings are preliminary and subject to change upon review by state agency and CUPA management. Questions or comments can be directed to Kareem Taylor at (916) 327-9557.

	<u>Deficiency</u>	<u>Preliminary Corrective Action</u>
1	<p>The CUPA did not remit the collected state surcharge of \$42,178 that was reported on its fiscal year (FY) 2008/2009 Annual Single Fee Summary Report (Report 2). During the evaluation, the CUPA presented a FY 2008/2009 surcharge check dated 1-21-10 that was ready to send.</p> <p>In addition, the CUPA did not remit the collected CalARP surcharge for 3 facilities for FYs 2007/2008 and 2008/2009.</p> <p>One facility, Thums Long Beach Company, has not been billed the CalARP surcharge since 2004 (5 years).</p> <p>CCR, Title 27, Section 15250 (b)(1) (Cal/EPA)</p>	<p>By April 27, 2010, the CUPA will remit to the Secretary the collected surcharge from FY 2007/2008 and 2008/2009.</p> <p>The CUPA will bill Thums Long Beach Company the CalARP surcharge for each year (5 years) the business was regulated. The CUPA will remit the collected surcharge within 30 days of the end of the quarter.</p>
2	<p>The CUPA did not report the CalARP surcharge billed and collected from 3 facilities on the Report 2s for FYs 2007/2008 and 2008/2009. The CUPA's billing system inquiry showed that the CalARP surcharge was billed to the 3 facilities; however, the surcharge was not designated to the correct program and/or FY.</p> <p>CCR, Title 27, Section 15290 (a)(1)(C) (Cal/EPA)</p>	<p>By April 27, 2010, the CUPA will submit revised Report 2s for FYs 2007/2008 and 2008/2009.</p>
3	<p>In some cases, the CUPA is not following-up and/or documenting return to compliance (RTC) for businesses</p>	<p>By July 27, 2010, the CUPA will determine the number of businesses that</p>

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	<p>cited for violations in Notices to Comply and inspection reports/Notices of Violation (NOV). Below are some of the business files reviewed that were cited for violations, but documentation of RTC or CUPA follow-up was not found:</p> <ul style="list-style-type: none"> • Speedy Fuels, Inc. (UST) inspected 3-31-09. • T & T Electric Neon Signs, Inc. (HWG) inspected 2-3-09. Violations were noted, but the NOV checkboxes were not checked. A reinspection was scheduled for 3-3-09, but not performed. • CVS Pharmacy (HWG) inspected 11-16-09. A reinspection was scheduled for 12-16-09, but not performed. • Best Deal Auto Collision Center (HWG) inspected 11-19-09. A reinspection was scheduled for 12-15-09, but not performed. <p>HSC, Chapter 6.11, Section 25404.1.2 (c) (Cal/EPA and Cal EMA) CCR, Title 27, Section 15200 (a) CCR, Title 27, Section 15185 (a) and (c)</p>	<p>have unaddressed violations. The CUPA will follow-up with those businesses and document their actions with RTC certifications, reinspection reports, enforcement letters, corrected forms, etc.</p> <p>On the 1st progress report, the CUPA will submit to Cal/EPA the status of their follow-up process. Include the total number of businesses the CUPA followed-up with that had unaddressed violations.</p>
4	<p>The CUPA is not ensuring that businesses are annually submitting a hazardous materials inventory or certification statement on or before March 1.</p> <p>During the Cal EMA file review, 40% of the files reviewed lacked a current inventory or certification. This percentage was validated by the CUPA database.</p> <p>HSC, Chapter. 6.95, Section 25505 (c) (Cal EMA)</p>	<p>By April 27, 2010, the CUPA will report to Cal/EPA (1st progress report) the number of businesses that have submitted a hazardous materials inventory or certification statement.</p> <p>In addition, the CUPA will report its total follow-ups on businesses that did not submit a hazardous materials inventory or certification statement by March 1.</p>
5	<p>The CUPA has not issued an Underground Storage Tank (UST) permit to any UST facilities due to a technical problem with its BlueZone permit generating and fee management program. Some Unified Program Facility Permits (UPFP) found in the facility files did not categorize facilities with USTs as part of the UST program element. The UPFP for UST facilities is missing the following:</p> <ul style="list-style-type: none"> • The number of tanks at the facility • UST Tank Identification Number(s) • Monitoring requirements of both tanks and piping (or an attached approved monitoring plan) <p>Information related to UST program element</p>	<p>By April 27, 2010, the CUPA will issue permits to UST facilities that contain:</p> <ul style="list-style-type: none"> • A notation of all applicable program categories • The number of tanks at the facility • UST Tank Identification Number(s) • Monitoring requirements (or an attached approved monitoring plan) <p>The CUPA may develop a template that contains choices of monitoring options to</p>

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	categorization, fee payment records, and the number of tanks is stored in the CUPA's database.	<p>select or the monitoring requirements may be displayed on the permit as: "Monitoring or programming for monitoring will be conducted at the locations of the following equipment, if installed: monitoring system control panels; sensors monitoring tank annular spaces, sumps, dispenser pans, spill containers, or other secondary containment areas (e.g. double-walled piping); mechanical or electronic line leak detectors; and in-tank liquid level probes (if used for leak detection). Also monitoring options for automatic pump shutdown, fail safe operation, or other programming options will be specified.</p> <p>Additionally, if the CUPA wants to list equipment test due dates and other pertinent information on the permit they may do so.</p>
6	<p>The CUPA internally creates permits for UST facilities before compliance is verified. The permits are usually not issued directly to UST facility owners/operators due to problems with the BlueZone permitting program.</p> <p>CCR, Title 23, Section 2634 (b), 2641 (g) and 2712 (c) (SWRCB)</p>	<p>By April 27, 2010, the CUPA will verify that UST facilities are in compliance with the law before a permit is issued.</p> <p>On the 1st progress report, the CUPA will submit to Cal/EPA an action plan stating how UST facility compliance will be verified before a permit is issued.</p> <p>CCR, Title 23, Section 2712 (e) (SWRCB)</p>

CUPA Representative

Nelson Kerr
(Print Name)

Original Signed
(Signature)

Evaluation Team Leader

Kareem Taylor
(Print Name)

Original Signed
(Signature)

PROGRAM OBSERVATIONS AND RECOMMENDATIONS

The observations and recommendations provided in this section address activities the CUPA are implementing and/or may include areas for continuous improvement not specifically required of the CUPA by regulation or statute.

- 1. Observation:** As noted in the deficiency section, the CUPA has had difficulty following-up with facilities with violations. CUPA staff is not consistently contacting facilities to compel them to complete required business plan, UST, and hazardous waste forms. Reinspections are often scheduled in original inspection reports to verify compliance, but the reinspections are not always performed. Completing routine inspections has been a top priority for the CUPA; however, because of budgetary setbacks and the increase in workload of current staff, CUPA follow-up, enforcement, and data entry have lagged in the last 2 years. Clerical work completion has not been consistent because the CUPA has not dedicated a permanent clerical person to handle administrative responsibilities.

Recommendation: Cal/EPA recommends that the CUPA dedicate at least one clerical staff whose primary function will be to perform administrative tasks that includes CUPA follow-up and data entry.

- 2. Observation:** Most formal enforcement actions taken by the CUPA have been referred to the City Attorney. This has worked well in the past; but since early 2009, the City Attorney has not acted on any environmental enforcement cases brought by the CUPA. The CUPA has decided to start implementing administrative enforcement orders (AEO) as another option for formal enforcement. The CUPA revised their older AEO policy creating a new draft policy to submit to the City Attorney for approval. When the policy is accepted, the CUPA will use AEO as its primary formal enforcement tool.

Recommendation: none

- 3. Observation:** The CUPA is working on an electronic reporting web portal application called Tait. Tait's software engine is similar to E-Compliance and will exchange information with the California Electronic Reporting System (CERS) in the same way. This application is expected to be online by 2013.

Recommendation: none

- 4. Observation:** The CUPA's business plan program has improved tremendously since the 2007 evaluation. Approximately 92% of the CUPA's business plan facilities have been inspected over the past three FYs. The CUPA has become more proficient at ensuring that its businesses are reviewing their business plan once every three years. Ensuring that businesses are annually submitting a hazardous materials inventory or certification statement continues to be a problem.

Recommendation: Cal EMA recommends that the CUPA continue to improve the implementation of the business plan program by correcting the inventory deficiency. Refer to the annual inventory deficiency.

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- 5. Observation:** The CUPA has been involved in ongoing enforcement actions against the UST facility X-tra Fuels for significant violations. It appears that the formal enforcement actions will eventually close the facility because of the severity of the violation(s), but the CUPA could take immediate action to prevent, reduce, or mitigate the actual or potential damages to human health and safety or the environment by using the Red Tag Authority granted by California Code of Regulations Title 23, section 2717 to stop the delivery of petroleum to the facility.

Recommendation: The SWRCB strongly recommends that the CUPA employ the Red Tag Authority as an enforcement option to prohibit operation of a UST facility that poses an imminent threat to human health and safety or the environment or if the owner/operator fails to take appropriate actions to correct violations. Significant violations include chronic violations or violations that are committed by a recalcitrant violator. If the CUPA decides to use the Red Tag enforcement tool, it will need to be included as an enforcement option in the Inspection and Enforcement Plan.

- 6. Observation:** On the UST Facility Information forms (Form A) reviewed, the CUPA did not have the Board of Equalization (BOE) number recorded.

Recommendation: The SWRCB strongly encourages the CUPA to secure BOE numbers from Owner/Operators and enter them on the required form.

EXAMPLES OF OUTSTANDING PROGRAM IMPLEMENTATION

1. **Emergency Response:** The CUPA implements an efficient emergency response program due to its staff delegation policy. CUPA staff responds to hazardous materials incidents 24/7. Each hazardous materials specialist responds to emergencies in their respective district during the workday. After hours emergency response is rotated between staff on a weekly basis.
2. **Hazardous Materials Awareness:** The CUPA is an active membership of the Greater Long Beach Chemical Awareness & Emergency Response (CAER) group. This group is comprised of government, hospital, community and businesses that regulate, handle, or are concerned with hazardous chemicals. Most of the businesses are those that handle large volumes and/or extremely hazardous materials.
3. **UST Program Documentation:** Aside from the CUPA's UST permit issues, the UST program conducted by Long Beach Fire Department (LBFD) is very effective in dealing with facility owners/operators to ensure compliance and business success. The LBFD does an excellent job of reviewing required document submittals and correcting any items that may not be accurate. The current facility/tank/ monitoring forms (12/2007) have been collected for existing UST facilities. Financial Responsibility documentation is current and was found in all files reviewed. Designated Operator information is updated as needed and submitted with the Owners Statement of Understanding and Compliance. The CUPA has an installation inspection checklist, as well as, a Closure checklist and documents each in their files. The CUPA's UST files are highly organized, chronological, and divided into sections such as inspections, required documentation, permitting, etc. The CUPA has submitted all of their required Quarterly and Semiannual Report 6s on time.
4. **UST Oversight Inspection:** On April 7, 2010, the SWRCB evaluator conducted an oversight inspection, with a CUPA UST inspector, as part of the CUPA Evaluation process. The SWRCB evaluator noted that the inspection was performed in a thorough and professional manner. The inspector used a detailed inspection checklist to document the scope of the inspection and all the required elements for compliance. He performed an extensive pre-review of the facility's UST file to verify operational and forms compliance. His attention to detail and knowledge of code and regulations resulted in an excellent inspection.

During the initial phase of the inspection, the inspector received consent to the inspection and briefly described the inspection process. He had the service tech open all the sumps, fills, and dispensers prior to starting the equipment testing. He then checked the condition of all the sumps, fills, and dispensers while being wary of any questionable substances. He verified that all the sensors operated correctly by inspecting lead wires for breaks and tapping them down at the lowest point in the containment. The sensor check was easy because LBFD requires UST sensors to be anchored or held in place. Dispenser hoses, breakaways, and nozzles were checked for any operational or visual impairments. The inspector checked for fire extinguishers and fuel warning signage. He instructed the service tech to tighten down one of the electrical junction box lids that was loose.

During the monitoring certification, the service tech was instructed to print the system setup and alarm status to verify that it was correct. The service techs witnessed all the tests and had the operator replace one Mid-line Leak Detector that failed. All the shear valves were tripped to verify that the flow of fuel would stop. The spill buckets were tested along with their drain mechanisms.

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The inspector reviewed the on-site paperwork and discussed it with the facility manager. After he completed the inspection, he created a copy of the Inspection Report Checklist for the manager and discussed his findings. After there was a mutual understanding of the inspector's finding, the operator denoted his receipt of the report with his signature.